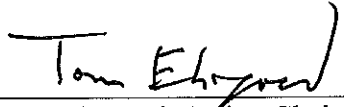


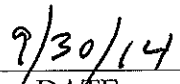
Town of Amherst
Zoning Board of Appeals
SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit, ZBA FY2014-00029, to modify condition # 3 and # 4 of ZBA FY1994-44 to formalize a change increasing the number of vehicles on the property from four to six, at 58 North Prospect (Map 11C, Parcel 211, R-G Zoning District) with the following conditions:

1. Except for parking, all other conditions of ZBA FY994-44 shall remain in force.
2. The parking shall be as shown on the Town GIS parking plan, dated January 21, 2014 and approved on April 30, 2014.
3. There shall be no more than six vehicles parked on the property on a regular basis (four on the exterior and two in the garage).
4. There shall be no more than two vehicles parked in the front setback.



Tom Ehrgood, Acting Chair
Amherst Zoning Board of Appeals



DATE

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant/Owner: Catherine and Morton Jensen-Hole, 556 Federal Street, Belchertown, MA

Date application filed with the Town Clerk: March 27, 2014

Nature of request: For a Special Permit to modify condition # 3 and # 4 of ZBA FY1994-44 to formalize a change increasing the number of vehicles on the property from four to six

Address: 58 North Prospect (Map 11C, Parcel 211, R-G Zoning District)

Legal notice: Published on April 15, 2014 and April 22, 2014 in the Daily Hampshire Gazette and sent to abutters on April 14, 2014

Board members: Tom Ehrgood, Eric Beal, Mark Parent

Staff members: Jeff Bagg, Senior Planner

Submissions:

- Application form filed with the Town Clerk on March 27, 2014
- Parking timeline
- Before and after images
- Request summary
- Town GIS parking plan, dated January 21, 2014
- Contractor specification sheet, dated May 22, 2013
- Management Plan
- June 17, 2008 ZBA public meeting agenda and notes
- ZBA FY1994-44 with approved plans
- Town GIS lot coverage map, dated April 30, 2014
- Letter from James Muspratt, 38 North Prospect

Site Visit: April 29, 2014

Tom Ehrgood, Eric Beal, and Mark Parent observed the location of the property on the north side of North Prospect Street, and the following:

- The existing driveway and parking area paved in bituminous blacktop
- The location of four exterior spaces and two garage spaces
- A clear line between the asphalt and grass and edges of landscaped areas.

Public Hearing: April 30, 2014

In connection with the Town's Rental Permit program, the applicants, Catherine and Morten Jensen-Hole, are seeking modifications to the following conditions of the 1994 Special Permit:

Condition #3 – *There shall be no more than four cars parked on the premises*

Condition # 4 – *There shall be no vehicular parking in the front setback.*

In 1994, the ZBA approved a parking plan which included two interior garage parking spaces and two exterior spaces.

Ms. Jenson Hole described the application as follows:

- She and her husband purchased the property in 2007. After their purchase, one neighbor complained about the movements of cars in and out of the driveway, which were complicated because cars were stacked, requiring that cars be moved in order to let others out of the driveway.
- They first came to the Board in 2008 to request a minor change to allow the two cars to be reoriented perpendicular to the house. At that time, the Board approved a change in the arrangement of the parking and allowed a small dirt area to be paved, reorienting the two exterior spaces in the driveway to become more perpendicular to the house.
- Until October 2012, there were no problems. However, after an ice storm, an existing tree was knocked down and was later removed. The removal of the tree resulted in an open space where tenants began to park. The entrance to the driveway had also become degraded and the blacktop began to break apart. The owners received a quote to repave the entire driveway and made the improvement, resulting in parking for four vehicles. The Board noted that the previous Special Permit limited the number of cars in the driveway to two. Mr. Ehrgood asked how many vehicles are parked on the property on a regular basis. Ms. Jenson-Hole explained that there are typically six vehicles parked on the property.

The Board made the following findings under Article 7:

7.0000 - *Two (2) parking spaces for each dwelling unit.* The proposal requests an increase in the number of vehicles from four to six. This exceeds the minimum requirement.

7.0001 - *Parking spaces for cars or similar vehicles shall be on a paved surface such as concrete, bituminous asphalt, masonry pavers, oil and stone, gravel, trap rock, or a similar material (see Section 7.101).* The existing parking area and driveway are paved with bituminous blacktop and therefore meet this requirement.

7.0002 - *In any residential district, there shall be a maximum of two (2) cars or similar vehicles allowed to be parked in the front setback of any property. Parking in the front setback shall be on paved surfaces only. Where five (5) or more cars are regularly parked on a given property in association with a residential use, parking in the front setback shall be designed so as to ensure free passage at all times for regular users and unrestricted access for emergency vehicles.* The proposal provides for only four exterior parking spaces and two garage spaces. The Board finds that the provisions for five spaces are not triggered because the exterior parking area is only four spaces.

7.101- *Paving: For the purposes of this bylaw, a paved parking surface shall be considered to be one which has a prepared subgrade and compacted gravel base with a minimum total 12 inch depth, appropriate grading and drainage, and which is surfaced with a minimum 2 inch top coat of concrete, asphalt, masonry pavers, oil and stone, gravel, trap rock, or similar material, as approved or modified by the Town Engineer. To the extent feasible, permeable or porous paving shall be employed in new construction or site renovations or improvements.* The applicant has provided a specification sheet from paving contractor which indicates that the expanded area was constructed with a prepared subgrade. The Board finds that the parking area satisfies the design requirements of this section.

7.104- Dimensions, Marking & Delineation - The area of all parking areas shall be included in the calculation of maximum lot coverage. Based on the calculations shown on the Town GIS lot coverage map, prepared by the Planning Department, the approximate total lot coverage calculation is 22.9% which is less than the maximum allowed in this district of 40%.

Parking areas shall be clearly delineated and shall be provided with a permanent dust-free surface and adequate drainage. The parking area is clearly delineated by its construction with bituminous blacktop. There are no known drainage issues related to the parking area.

Each parking space shall be at least 9 feet x 18 feet in size, and all parking areas must have adequate access and maneuvering areas. Based on the applicant's GIS parking plan and the plan prepared by the contractor, it can be determined that the width of the parking area is 41 feet which is sufficient width to provide four nine foot wide parking spaces. The depth of the spaces appears adequate to support 18 feet in length, especially because the spaces are angled

In all parking areas of five (5) or more parking spaces, individual spaces shall be painted, marked or otherwise delineated in a manner sufficient to visibly identify said spaces. The proposal provides for two parking areas: four exterior spaces and two interior spaces in the garage. As such, there is no area of five or more parking spaces.

7.105- Lighting: adequate lighting shall be provided for all parking areas of 5 spaces or more if these areas are to be used at night. All exterior site lighting associated with parking areas shall be downcast and shall be directed or shielded to eliminate light trespass onto any street or abutting property and to eliminate direct or reflected glare perceptible to persons on any street or abutting property and sufficient to reduce a viewer's ability to see. As indicated in the Management Plan, there are two motion sensor floodlights on the second floor which light the parking area. The Board encouraged that some downcast lighting be provided along the south side of the building for the safety of the tenants.

7.112- Screening: parking areas with 5 or more spaces shall provide effective screening of the parking area from adjacent streets or properties. Such screening may be accomplished by: depressions in grade 3 feet or more; a hedge or wall; or any type of appropriate natural or artificial permanent division. Any required screening barrier shall not be less than 3 feet high.

Screening shall not be located to obstruct driver visions so as to impair safety at intersections or driveway entrances or exits. The proposal provides four exterior spaces and two interior spaces in the garage. As such, the Board finds that the requirements for five spaces are not triggered or required. Furthermore, the Board finds that screening is not necessary given the orientation of the vehicles inward toward the subject dwelling and there are no turnaround areas that would create headlight glare onto the adjacent parcel.

The Board noted that since Inspection Services began monitoring complaints and/or violations in May 2012, none have been found for this property.

The Board received and reviewed a letter from an abutter which expressed concerns regarding the non-owner occupied nature of the property and the request for additional parking. Mr. Ehrgood did note that the owner should remind the tenants that North Prospect Street is one-way as during their site visit one of the tenants went the wrong way down the one-way to access the property.

No members of the public spoke regarding this application.

Mr. Parent MOVED to close the evidentiary portion of the public hearing. Mr. Beal SECONDED and the Board VOTED unanimously to close the public hearing.

Specific Findings:

The Board found under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 & 10.381 - *The proposal is suitably located in the neighborhood in which it is proposed and/or the total Town, as deemed appropriate by the Special Permit Granting Authority; The proposal is compatible with existing Uses and other Uses permitted by right in the same District.* The proposal provides a paved area that is compatible with and suitably located in the neighborhood. Providing an improved paved parking surface is in keeping with the bylaw and the area contains landscaping in keeping with the surrounding properties. Four exterior parking spaces is not a substantial change to the property.

10.383 & 10.387 - *The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians; The proposal provides convenient and safe vehicular and pedestrian movement within the site, and in relation to adjacent streets, property or improvements.* The proposal provides convenient and safe vehicular movement and provides a well maintained and landscaped parking area.

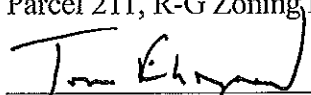
10.386 - *The proposal ensures that it is in conformance with the Parking and Sign regulations (Articles 7 and 8, respectively) of this Bylaw.* The proposal provides a total of six spaces where only four are required. The parking arrangement meets all other requirements of Article 7. The Board found that the four exterior spaces do not trigger any of the requirements for additional screening, lighting or delineation for five spaces under Article 7. The Board finds that the bituminous blacktop is a suitable parking surface and meets the design requirements of Section 7.101.

10.398 - *The proposal is in harmony with the general purpose and intent of this Bylaw, and the goals of the Master Plan.* The proposal provides for a more accurate depiction of existing parking conditions on this property which is important to the Town relative to the Rental Permit program.

Zoning Board Decision

Mr. Beal MOVED to approve the application with conditions. Mr. Parent seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit, ZBA FY2014-00029, to modify condition # 3 and # 4 of ZBA FY1994-44 to formalize a change increasing the number of vehicles on the property from four to six, at 58 North Prospect (Map 11C, Parcel 211, R-G Zoning District) with conditions.


TOM EHRCOOD


ERIC BEAL


MARK PARENT

FILED THIS 1st day of October, 2014 at 4:11 p.m.
in the office of the Amherst Town Clerk Sandra J. Burger
TWENTY-DAY APPEAL period expires, October 21, 2014.
NOTICE OF DECISION mailed this 3 day of October, 2014
to the attached list of addresses by Jeffrey L. Bay, for the Board.
CERTIFICATE OF NO APPEAL issued this day of , 2014.
NOTICE OF PERMIT or Variance filed this day of , 2014,
in the Hampshire County Registry of Deeds.

**BOARD OF APPEALS
AMHERST, MASSACHUSETTS
RECORD OF APPEALS AND DECISION RENDERED**

Petition of Catherine and Morton Jensen-Hole

For a Special Permit to modify condition # 3 and # 4 of ZBA FY1994-44 to formalize a change increasing the number of vehicles on the property from four to six

On the premises of 58 North Prospect Street
At or on Map 11C, Parcel 211, R-G Zoning District

NOTICE of hearing as follows mailed (date) April 14, 2014
to attached list of addresses and published in the Daily Hampshire Gazette
dated April 15, 2014 and April 22, 2014

Hearing date and place April 30, 2014 (Town Hall)

LEGAL NOTICE

The Amherst Zoning Board of Appeals will meet on *Wednesday, April 30, 2014*, at 6:30 PM, in the First Floor Meeting Room, Town Hall, to conduct the following business:

PUBLIC HEARING:

ZBA FY2014-00029 - Catherine & Morton Jensen-Hole - For a Special Permit to modify condition # 3 and # 4 of ZBA FY1994-44 to formalize a change increasing the number of vehicles on the property from four to six, at 58 North Prospect (Map 11C, Parcel 211, R-G Zoning District) ZBA FY2014-00030 - Ping Gang - For a Special Permit to modify ZBA FY1987-00037 to formalize a change increasing the number of vehicles on the property from three to six, at 106 Gray Street (Map 11D, Parcel 110, R-G Zoning District) ZBA FY2014-00031 - G. Jeffrey Boine - For a Special Permit to modify condition # 2 of ZBA FY1998-98 to allow an existing supplemental apartment to be rented to other than a family member, at 77 Shays Street (Map 20A, Parcel 166, R-N Zoning District) ZBA FY2014-00032 - Peter Jacoby - For a Special Permit to renew and/or reissue ZBA FY2014-00005 and ZBA FY2010-00008, or obtain a new Special Permit, to utilize the property as an owner-occupied Converted Dwelling, under Section 10.33 and 3.3241 of the Zoning Bylaw, at 98 Spring Street (Map 14B, Parcel 36, R-G Zoning District) ERIC BEAL, CHAIR AMHERST ZONING BOARD OF APPEALS

April 15, 22 3291467

SITTING BOARD and VOTE TAKEN:

To grant a Special Permit, ZBA FY2014-00029, to modify condition # 3 and # 4 of ZBA FY1994-44 to formalize a change increasing the number of vehicles on the property from four to six, with conditions.

Tom Ehrgood - Yes Eric Beal - Yes Mark Parent - Yes

DECISION: APPROVED with conditions

THE COMMONWEALTH OF MASSACHUSETTS
AMHERST

City or Town
NOTICE OF SPECIAL PERMIT
Special Permit
(General Laws Chapter 40A)

Notice is hereby given that a Special Permit has been granted

To Catherine and Morton Jensen-Hole

Address 556 Federal Street

City or Town Belchertown, MA 01007

Identify Land Affected: 58 North Prospect Street
(Map 11C, Parcel 211, R-G Zoning District)

By the Town of Amherst Zoning Board of Appeals affecting the rights of the owner
with respect to the use of the premises on

58 North Prospect Street Amherst
Street City or Town

The record of title standing in the name of
Catherine & Morton Jensen Hole
Name of Owner

Whose address is 556 Federal Street Belchertown MA 01007
Street City or Town State Zip Code

By a deed duly recorded in the
Hampshire County Registry of Deeds: Book 9124 Page 267
or

Hampshire Registry District of the Land Court, Certificate No. _____,
Book _____, Page _____

The decision of said Board is on file, with the papers, in ZBA FY2014-00029
In the office of the Town Clerk Sandra J. Burgess

Certified this _____ day of _____

Board of Appeals:

(Board of Appeals) Chairman

(Board of Appeals) Clerk

_____ at _____ o'clock and _____ minutes _____ m.
Received and entered with the Register of Deeds in the County of Hampshire
Book _____ Page _____

ATTEST _____

Register of Deeds
Notice to be recorded by Land Owner

Town of Amherst Abutter List

<i>Parcel_ID</i>	<i>Parcel_Address</i>	<i>Owner1</i>	<i>Owner2</i>	<i>Address</i>	<i>CityStZip</i>
14A-4-25	151 AMITY ST #4	BYRNES, PETER T		151 AMITY ST #4	AMHERST, MA 01002
14A-3-25	151 AMITY ST #3	FROHLICH, NEWTON & MARTHA		195 KING PHILIP RD	WELLFLEET, MA 02667-0940
14A-5-25	151 AMITY ST #5	SIGGIA, ALAN		151 AMITY ST #5	AMHERST, MA 01002
14A-1-25	151 AMITY ST #1	SNEDECOR, PETER J & SCARFF, ANNE W		151 AMITY ST #1	AMHERST, MA 01002
14A-2-25	151 AMITY ST #2	SOUTHWICK, SANDRA		29 LAUREL HILL DR	LEVERETT, MA 01054
11C-233	COWLES LN	SHUMWAY I LIMITED PARTNERSHIP	C/O CURTIS SHUMWAY	220 NORTH PLEASANT ST	AMHERST, MA 01002
11C-232	21 COWLES LN	SHUMWAY I LIMITED PARTNERSHIP	C/O CURTIS SHUMWAY	220 NORTH PLEASANT ST	AMHERST, MA 01002
11C-225	26 & 38 HALLOCK ST	SHUMWAY I LIMITED PARTNERSHIP	C/O CURTIS SHUMWAY	220 NORTH PLEASANT ST	AMHERST, MA 01002
14A-19	145 LINCOLN AVE	BROWN, PETER C	SHIEH, MENG-SHIOU	145 LINCOLN AVE	AMHERST, MA 01002
11C-75	155-157 LINCOLN AVE	COOK, JOE M & SUSAN H RUPP		155 LINCOLN AVE	AMHERST, MA 01002
11C-76	163 LINCOLN AVE	KRAUSE, RHETT D & SUSAN A		163 LINCOLN AVE	AMHERST, MA 01002
11C-77	171 LINCOLN AVE	KU, HSU-TUNG & MEI CHIN		20 BRIDGE RD UNIT 12	FLORENCE, MA 01062
11C-78	179 LINCOLN AVE	SAGALYN, AVITAL R		179 LINCOLN AVE	AMHERST, MA 01002
11C-79	191 LINCOLN AVE	WILCOX, BRUCE G & GRETA GREEN TRUSTEES		191 LINCOLN AVE	AMHERST, MA 01002

<i>Parcel ID</i>	<i>Parcel Address</i>	<i>Owner1</i>	<i>Owner2</i>	<i>Address</i>	<i>City/Zip</i>
11C-234	122 NORTH PLEASANT ST	ROMAN CATHOLIC BISHOP OF SPFLD		P.O. BOX 1730	SPRINGFIELD, MA 01101-1730
14A-33	NORTH PROSPECT ST	TOWN OF AMHERST		TOWN HALL	AMHERST, MA 01002
14A-32	32 NORTH PROSPECT ST	HASTINGS, PHYLLIS S	C/O ELIZABETH HASTINGS	23 HAZEL ST	MILTON, MA 02186
11C-215	38 NORTH PROSPECT ST	FABING, SUZANNAH J		38 NORTH PROSPECT ST	AMHERST, MA 01002
11C-214	44 NORTH PROSPECT ST	PEACE DEVELOPMENT FUND		P.O. BOX 40250	SAN FRANCISCO, CA 94140-0250
11C-213	52 NORTH PROSPECT ST	LEFEBVRE, JEFFERY J & ALEXANDRA J		52 NORTH PROSPECT ST	Amherst, MA 01002
11C-217	57 NORTH PROSPECT ST	O'CONNELL, KILLIAN		610 STATION RD	Amherst, MA 01002
11C-211	58 NORTH PROSPECT ST	JENSEN HOLE, MORTEN & CATHERINE M		556 FEDERAL ST	BELCHERTOWN, MA 01007
11C-209	62 NORTH PROSPECT ST	ABRAMMS, BOB		62 NORTH PROSPECT ST	AMHERST, MA 01002
11C-216	63 NORTH PROSPECT ST	CHIN-GIBBONS, ALICIA A & JOHN J		63 NORTH PROSPECT ST	AMHERST, MA 01002
11C-218	65 NORTH PROSPECT ST	EWERT, HOWARD T & BARBARA		PO BOX 654	SOUTH HADLEY, MA 01075
11C-219	71 NORTH PROSPECT ST	VOLPE, JOSEPH S R & PAULINE A	VOLPE, SALVATORE M	320 PINE ST	AMHERST, MA 01002
11C-208	74 NORTH PROSPECT ST	AMHERST COMM FOR BETTER CHANCE	C/O ALLEN HART	P O BOX 1922, STATION 2	AMHERST, MA 01002
11C-220	77-79 NORTH PROSPECT ST	VOLPE, JOSEPH S R & PAULINE A	VOLPE, ZEBEDEE J	320 PINE ST	AMHERST, MA 01002
11C-207	82 NORTH PROSPECT ST	ROSKILL, NANCY LEE		82 NORTH PROSPECT ST	AMHERST, MA 01002

<i>Parcel_ID</i>	<i>Parcel_Address</i>	<i>Owner1</i>	<i>Owner2</i>	<i>Address</i>	<i>CityStZip</i>
11C-221	83 NORTH PROSPECT ST	KENT, ALEXANDER MICHAEL		83 NORTH PROSPECT ST	AMHERST, MA 01002
11C-333	90 NORTH PROSPECT ST	ADLER, MICAH		25 RUTLAND SQUARE	BOSTON, MA 02118